FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
NAGPUR BENCH, NAGPUR

Second Appeal No. 644/2004

Appeal	District :
Application No.	of 200
Writ petition	

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders

CORAM : Smt. V. A. Naik, J.
DATED : February 2, 2007.

Heard Shri Kaptan, the learned counsel for the appellant, and Shri Anup Dhore, the learned counsel for the respondent.

The appellant is the original plaintiff. A suit was filed by the plaintiff for partition and separate possession. According to the plaintiff, the plaintiff and the defendant who is his elder brother, had migrated from Pakistan to India and were granted the suit land for their rehabilitation. According to the plaintiff, the suit land was the joint property of the plaintiff and the defendant and since the two had separated from each other, two years prior to the institution of the suit, the plaintiff was entitled to half share in the suit property. The trial Court partly decreed the suit of the plaintiff and held that the defendant had failed to prove that the property was exclusively allotted to the defendant by the Government. The trial Court granted a decree for

partition and separate possession in favour of the plaintiff.

In an appeal filed by the defendant against the judgment and decree passed by the trial Court, appellate Court heavily relied on the documents at Exhs. 20, 21 and 22 to hold that the plaintiff had failed to prove that the property was allotted jointly to the defendant and the plaintiff by the Government for their rehabilitation. Consequently, the appellate Court held that the plaintiff was not entitled to claim half share in the suit property. The appellate Court, after considering the entire evidence on record, recorded a finding that the suit property was allotted in favour of the defendant only.

The findings recorded by the appellate Court are based on the evidence led by the parties on record. The findings are pure findings of fact and do not give rise to any substantial question of law.

Second appeal is, therefore, dismissed with no order as to costs.

JUDGE

RMP